



**COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION
ON THE JUNE 22, 2018 RETAIL CHOICE *EN BANC*
July 11, 2018**

On June 11, 2018, the Retail Energy Supply Association¹ (“RESA”) submitted informal comments on the draft “Green Book,” *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market*, issued on May 3, 2018 (revised May 17, 2018). Then, on June 22, 2018, the California Public Utilities Commission (“Commission”) held an *En Banc* hearing jointly with the California Energy Commission that offered informative and wide-ranging discussions on the Green Book and the opportunities afforded by expanded retail choice. At the *En Banc*, staff of the California Choice Project Team announced that stakeholders could submit additional comments for the Commission’s consideration. Accordingly, RESA is pleased to provide these additional comments.

The Green Book identified customer protection as one of the Commission’s “key questions” to consider with expanded retail choice. The Green Book asks questions such as who monitors and resolves disputes between the customer and the provider and what are the marketing protections for customers.² In addition, attendees at the *En Banc* heard concerns about ensuring customer protection with expanded retail choice.

¹ The comments expressed in this submittal represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² Green Book, Table 5, “Key Questions and Attributes,” p. 24.

RESA fully supports robust customer protection rules and wishes to add to the record on this point. Put simply, the questions in the Green Book have been asked and answered for direct access service years ago and direct access customer protection rules and complaint handling processes have been in place for decades. The Green Book should be revised to reflect these essential facts.

California initiated customer protection requirements for direct access more than 20 years ago -- before the market opened in April 1998. These initial protections implemented uniform switching rules, disconnection/reconnection requirements, tracking and management of complaints, and specific requirements for electric service providers (“ESPs”) serving residential and small commercial customers.³

California also passed two statutes specifically addressing consumer protections for direct access customers. Senate Bill (“SB”) 477⁴ in 1997 primarily addressed registration requirements for ESPs serving residential and small commercial customers. The Commission implemented the SB 477 requirements in Decision (“D.”) 98-03-072 on an interim basis and made the requirements permanent in D.99-05-034. In 2003, Assembly (“AB”) Bill 117⁵ added additional customer protections by expanding the registration requirements to all ESPs and adding significant new customer protection requirements, such as requiring ESPs to fingerprint company officers, identify all related affiliates, and specify if any company officers had criminal records. The Commission implemented these protections in D.03-12-005, nearly 15 years ago.

Since that time, the Commission has implemented additional decisions revising ESP financial security, reducing the minimum waiting period for customers to return to direct access

³ See, for example, D.97-05-040 and D.97-10-087.

⁴ Stats. 1997, Ch. 275.

⁵ Stats. 2002, Ch. 838.

service, requiring payment of re-entry fees to address the possibility of involuntarily-returned residential or small commercial direct access customers, and establishing a “safe harbor” rate for such customers.⁶ The Commission further determined that financial security is not required for ESPs serving only medium to large commercial and industrial customers, concluding that such customers bear their own risk for increased procurement costs if returned to utility service involuntarily.⁷

Further, with all these decisions, the Commission has established strong compliance and enforcement requirements and specified the procedures it will follow in denying an ESP’s registration or suspending or revoking an ESP’s registration.

As a quick summary, each ESP seeking to serve load in California is required to (among other things):

- Sign a contract with each utility before registering.
- Provide evidence that it is an approved Scheduling Coordinator at the CAISO or has signed a contract with another company to provide that service.
- Register with the Commission.
- Provide financial security.
- Meet standards of technical and operational ability.
- Maintain a customer complaint contact.
- Pay an annual registration fee to the Commission.

In addition, about 7,500 residential and 17,000 small commercial (< 20 kW) customers are on direct access service in California⁸ and each ESP serving residential or small commercial customers is required to (among other things):

- Submit a report that details standard customer service plans and marketing material.
- Follow a standardized bill format.

⁶ See, D.11-12-018, D.13-01-021, and D.13-04-001.

⁷ See, D.11-12-018, p. 59.

⁸ From the most recent report posted on the Commission web site: *Supplemental Direct Access Activities Report – Statewide Summary*, April 15, 2018.

- Meet requirements for a standard notice to be submitted to customers describing the rates, terms and conditions of service.
- Use 3rd-party verification for a customer's agreement to purchase service via telephone.
- Follow a prescribed process when enrolling customers in person, via mail or electronic means.
- Specify and implement rescission rights for customers.

In short, the Commission has implemented clear and robust customer protection rules for direct access customers over the last 20 years. RESA is unaware of any consumer protection issues involving ESPs in recent times in California. The final Green Book should clearly identify and highlight the extensive customer protection rules already in place for direct access service and update these rules as necessary to improve the customers' experience

Comments made by some participants at the *En Banc* regarding consumer protection issues recently raised in the residential market in Illinois and Massachusetts reflect a different market construct, do not provide the full story of the benefits of choice, and are not applicable to the recent activity in California regarding the potential expansion of the commercial and industrial direct access market (SB 237). Moreover, no panelist expressed opposition to SB 237 or to expanded direct access for commercial and industrial customers.

RESA is pleased that the Commission is evaluating the important issues as outlined in the Green Book as California moves to greater competition for the benefit of all customers in the state. Direct access providers stand ready to assist in this effort and to ensure innovative, affordable, clean, and reliable power options to more Californians.